

California School Finance Authority

California Code of Regulations
Title 4, Division 15, Article 1.6

Readoption of Emergency Regulations

Pursuant to Government Code Section 11346.1(h), the California School Finance Authority (Authority) seeks to readopt emergency regulations approved by the Office of Administrative Law (OAL) on February 3, 2014 (OAL Regulatory Action # 2014-0123-02 E). This represents the second emergency readopt, as the first emergency readopt was approved by OAL on August 4, 2014 (OAL Regulatory Action # 2014-0723-03 EE). The emergency regulations are due to expire on November 4, 2014, and thus must be readopted for an additional 90-day period in order to complete the regular rulemaking process and submit the Certificate of Compliance to the Office of Administrative Law. The Charter School Revolving Loan Fund Program (Program) as provided in the emergency regulations is still ongoing, and the Authority is currently in the process of completing the necessary documents for the regular rulemaking process and Certificate of Compliance. The Authority submitted its Notice of Proposed Rulemaking Action (Notice) to OAL on September 26, 2014, and the Notice is due to be published on October 10, 2014. The Authority requires additional time to complete the Certificate of Compliance due to resource constraints such as staffing shortages. The circumstances surrounding the basis for the Emergency Rulemaking Action have not changed.

Finding of Emergency

Pursuant to Education Code section 41365, the State Legislature has directed the Authority to commence administration of the Program commencing with the 2013-14 fiscal year and has granted the Authority the power to adopt emergency regulations to implement the statute.

The Authority is directed under Education Code section 41365 (c) to disburse loan funds to eligible charter schools, not exceeding \$250,000 for each school within the lifetime of its charter. The Authority must evaluate applications for this loan and make eligibility determinations and initial loan calculations. Emergency regulations are necessary to prevent a delay in the distribution of funds to new charter schools, and to ensure that uniform standards and procedures are applied in administering the Program. Delay in funding could result in serious financial hardship for newly established charter schools,. In addition, new charter schools may not have the appropriate funds to open which could result in placement issues for students who originally planned to attend such schools. The Authority affirms that a delay in the disbursement of funds due to the lack of adopted regulations could cause serious financial and economic harm to eligible charter schools and California's charter school community at-large. California's charter schools depend heavily on the Program since its inception to help with start-up and operational costs. Charter schools' resources will be seriously impacted from delay in funds causing some schools to not open on time and some schools to not open at all. Due to current

economic pressures on California's charter school community and the need for eligible charter schools to receive their loan funds timely to prevent serious financial harm and interruption of operational needs, the Authority affirms that the adoption of these emergency regulations is conclusively necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1 of the Government Code. Further, the Legislature has declared that the adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of public peace, health and safety, or general welfare.

Authority and Reference

Authority: Section 41365 of the Education Code.

Reference: Section 41365 of the Education Code.

Informative Digest

Pursuant to AB 86 (Chapter 48, Statutes of 2013), the administration of the Program has been transferred to the Authority commencing with the 2013-14 fiscal year. The Program provides loans to eligible charter schools.

The Program will disburse loan funds to charter schools, not exceeding \$250,000 per school within the lifetime of their charter. Based on how the Program is intended to be administered for new charter schools, much of the data that determines eligibility and the loan amount will be based on estimates at the time of application. The loan and interest shall be paid back in regular installments withdrawn from the annual apportionment the charter school receives. The charter schools will pay interest calculated at the rate of the Pooled Money Investment Account.

These emergency regulations are necessary to establish definitions of key terms, clarify eligibility requirements, describe the materials needed to apply for the Program, and set forth uniform standards and procedures for the Authority's administration of the Program.

These emergency regulations will benefit charter schools that are going through the Program application process by answering questions such as: who's eligible, what content is in the application, how to submit an application, how the Authority will review a charter school's application, how the Authority will determine loan amount and repayment terms, what a charter school must agree to within the loan agreement, and how the Authority will conduct internal controls, audits, and conflicts of interest.

As noted above, the Authority seeks to adopt emergency regulations to ensure that the charter schools can effectively apply for the Program based on consistent criteria applicable to all applicants, make eligibility determinations, and estimate loan awards. Failure to have these emergency regulations in place could prevent the Authority from awarding loan funds timely and potentially lead to charter schools incurring significant hardship due to the loss of these needed funds prior to the start of the school year.

The Charter School Revolving Loan Fund Program Application Form CSFA 14-01, dated January 8, 2014, is incorporated by reference, pursuant to California Code of Regulations, title 1, section 20.

The Authority has conducted an evaluation as to whether there are any related regulations on this matter and has found that these are the only regulations dealing with this type of loan program for charter schools. Therefore, the proposed regulations do not present any inconsistencies or incompatibilities with existing state regulations.

Portions of these regulations duplicate and overlap education code 41365. Such duplications are necessary to ensure clarity of the provisions.

Mandate on Local Agencies or School Districts

The Executive Director of the Authority has determined that these amendments to the Program regulations do not impose any additional mandate on local agencies or school districts for a new program or higher level of service of an existing program.

Cost Estimate

The Executive Director of the Authority has determined that these emergency regulations will involve no costs or savings to any State agency, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable cost to local agencies or school districts under Section 17561 of the Government Code, and no costs or savings in federal funding to the State.